

REMARKS

In sections 8-24 of the Office Action, the Examiner rejected claims 1-4, 6-9, 18, 19, 21, 26, 28-34, and 40-45 under 35 U.S.C. §103(a) as being unpatentable over Apfel in view of Ballard.

Applicants' Argument Regarding Independent Claim 1 - Neither Apfel nor Ballard discloses a content recipient that both automatically initiates a request for posted content and automatically receives that posted content. In Figure 4A, Apfel discloses a block 409 that requires a manually initiated request for an update; and, in Figure 4B, Apfel discloses a block 439 that requires a manually initiated download of the update.

Apfel does state at column 11, lines 49-59 that, alternatively, the request may be initiated entirely in the background without a dialog box being displayed to the user. This portion further indicates that an HTTP query may automatically be initiated in the background, and that, if the query fails, there will be no action and the user will not even know that the query had been initiated. Finally, this portion indicates that, if the query is successful such that a new version is available, the user will be then prompted to apply the update.

In other words, the block 409 in Figure 4A may be dispensed with in this alternative, but the block 439 in Figure 4B is retained. Accordingly, although the initiation of the request is automatic, the receipt is still manual.

As to Ballard, the entire search is manual rather than automatic.

Accordingly, because neither Apfel nor Ballard discloses a content recipient that both automatically initiates a request for posted content and automatically receives that posted content as required by independent claim 1, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 1.

For this reason, independent claim 1 is not unpatentable over Apfel in view of Ballard.

Examiner's Response to Applicants Argument Regarding Independent Claim 1 - The Examiner asserts in section 3 of the Office Action that Apfel discloses in column 7, lines 1-10 that the content recipient both automatically initiates a request for posted content and automatically receives the posted content.

Column 7, lines 1-10 state that, after reviewing a query 100 asking if an upgrade is available,

the database server 80a returns a response 105 over the Internet to the computer 20. If an upgrade is not available, the database server 80a returns a response 105 that indicates that no upgrade is available. If an upgrade is available, then the database server 80a sends a response 105 including the URL of the upgrade package. After the computer 20 receives the response 105 including the URL of the upgrade package, the computer 20 sends a query 110 to the package server 80b at the URL of the update package. The package server 80b sends the update package 115 to the computer 20 and the computer 20 installs the update package 115.

This part of Apfel does not disclose that the update package is automatically requested and is automatically received. This part of Apfel merely states that the query 100 requesting the update is sent, a return message indicating the availability of the update is return, a query 110 is sent requesting the update is sent, and the update is returned and either manually or automatically installed.

Figures 4A and 4B amplify the message flow of Figure 3. These figures show (i) that the query 100 is not automatically initiated because the user must manually initiate the query 100 at blocks 409 and 412,

and (ii) that the query 115 is not automatically initiated because the user must manually initiate the query 115 at blocks 439 and 442.

Thus, the query 100 asking if an update is available is not sent automatically but is only sent upon the user's manual input, and the query 115 asking for the download of the update is not sent automatically but is only sent upon the user's manual input.

Accordingly, because neither Apfel nor Ballard discloses a content recipient that both automatically initiates a request for posted content and automatically receives that posted content as required by independent claim 1, independent claim 1 is not unpatentable over Apfel in view of Ballard.

Applicants' Arguments Regarding Independent Claim 18 - According to independent claim 18, a request for the download of a graphical content element of a web page posted by a content provider is automatically initiated, and only the graphical element is received in response to the request without receiving the whole web page. Apfel does not disclose that the upgrades are graphical elements of a web page or that graphical elements of a web page are downloaded without downloading the entire web page.

While it is possible for a web page of Apfel to include a link to an update, there is no disclosure in Apfel that this link is a graphical element or that the link can be downloaded to the content recipient without downloading the web page in which the link might appear.

Ballard similarly does not disclose downloading only a graphical element of a web page. Ballard merely discloses a process for searching the web for files and does not even mention web pages.

Accordingly, because neither Apfel nor Ballard discloses downloading only a graphical element of a web page, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 18.

For this reason, independent claim 18 is not unpatentable over Apfel in view of Ballard.

Examiner's Response to Applicants Argument
Regarding Independent Claim 18 - The Examiner takes Official Notice in section 5 of the Office Action that graphical user interface components of software are old and that updating a graphical user interface component may be necessary to correct bugs or to revise the component. However, this response does not address applicants' argument with respect to independent claim

18. As recited in independent claim 18, a graphical content element is part of a posted web page and is received by the user without receiving the web page. Neither Apfel not Ballard discloses these features of independent claim 18. Therefore, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 18.

Applicants' Arguments Regarding Independent Claim 32 - Apfel fails to disclose a user who electronically receives second program code that is responsible for automatically accessing a content provider and automatically initiating receipt by the content recipient of posted content.

The Examiner replies that Apfel discloses a prompt in column 10, lines 23-33, that the prompt is received by a content recipient, and that the prompt prompts the content recipient to access the content provider.

Column 10, lines 23-33 of Apfel states that an update dialog box is displayed, that the update dialog box displays an upgrade prompt, and that the user may use the dialog box either select to download the upgrade or select to terminate the upgrade attempt.

As can be seen, neither the dialog box nor the prompt within the dialog box automatically accesses a content provider or automatically initiates receipt by the content recipient of the posted content. Therefore, Apfel does not disclose the second program code recited in independent claim 32.

Ballard likewise does not disclose program code that automatically accesses a content provider or that automatically initiates receipt by the content recipient of the posted content only if the posted content is new.

Because neither Apfel nor Ballard discloses the second program code of independent claim 32, neither Apfel nor Ballard can disclose the last limitation of independent claim 32, i.e., electronically receiving the second program code at the content recipient.

Accordingly, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 32.

For this reason, independent claim 32 is not unpatentable over Apfel in view of Ballard.

Examiner's Response to Applicants Argument
Regarding Independent Claim 32 - The Examiner seems to be arguing that the prompt of Apfel is the second program code of independent claim 32. However, independent claim

32 specifies that the program code automatically initiates access of the content provider and automatically initiates receipt by the content recipient of the posted content. The prompt, on the other hand, is part of a manual process that requires the user to enter a manual instruction to request an upgrade. Therefore, the prompt cannot be process code that initiates the automatic process as recited in independent claim 32. Therefore, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 32.

Independent claim 45 - Neither Apfel nor Ballard discloses a content recipient who both automatically initiates a request for posted content and automatically downloads the posted content.

Accordingly, because neither Apfel nor Ballard discloses a content recipient that both automatically initiates a request for posted content and automatically receives that posted content as required by independent claim 45, one of ordinary skill in the art would not have combined Apfel and Ballard so as to produce the invention of independent claim 45.

For this reason, independent claim 45 is not unpatentable over Apfel in view of Ballard.

Examiner's Response to Applicants Argument

Regarding Independent Claim 45 - The Examiner did not specifically respond to applicants' argument with respect to independent claim 45. However, applicants assume that the Examiner intended the same response as the Examiner made in connection with independent claim 1. As in the case of independent claim 1, the Examiner's response does not establish the unpatentability of independent claim 45 over Apfel in view of Ballard.

Because independent claims 1, 18, and 32 are not unpatentable over Apfel in view of Ballard, dependent claims 2-4, 6-9, 19, 21, 26, 28-31, 33, 34, 40, 41, 43, and 44 are likewise not unpatentable over Apfel in view of Ballard.

In addition, dependent claim 40 recites that fourth program code is executed at the content provider so as to determine whether the content recipient possesses the second program code and, if the content recipient does not possess the second program code, to download the second program code to the content recipient.

Neither Apfel nor Ballard discloses or suggests program code that is executed at the content provider so as to determine whether the content recipient possesses

the second program code recited in the claims and, if the content recipient does not possess this second program code, to download this second program code to the content recipient.

Accordingly, dependent claim 40 is patentable over Apfel in view of Ballard.

Dependent claim 41 recites that the second program code is electronically received at the content recipient from the content provider.

As can be seen from the above discussion in connection with independent claim 45, dependent claim 41 is patentable over Apfel in view of Ballard.

Dependent claim 43 recites that, upon an action related to the notice, the posted content is displayed to a user.

The Examiner asserts that this feature in disclosed in column 7, lines 1-7 of Ballard.

Column 7, lines 1-7 of Ballard state that a file 76 is presented to the user such as by (i) displaying a message to the user indicating that the download is complete, (ii) displaying the file, (iii) playing the audio work, or (iv) displaying a message that the audio work is available to be played.

Items (ii) and (iii) are not pertinent to dependent claim 43 because if the file itself is displayed or played, there is no need to take an action related to a notice in order to display the posted content to the user.

That leaves items (i) and (iv). However, there is no disclosure in Ballard that the user can display the content by taking an action with respect to the notice.

Accordingly, one of ordinary skill in the art would not have produced the invention of dependent claim 43 from Apfel in view of Ballard. Therefore, dependent claim 43 is not unpatentable over Apfel in view of Ballard.

Dependent claim 44 recites that the content element comprises a note attached to the web page.

The Examiner points to column 2, lines 15-60 of Apfel. However, this portion of the Apfel does not disclose that the update is a note or that the update is attached to a web page.

Accordingly, dependent claim 44 is not unpatentable over Apfel in view of Ballard.

In sections 26-30 of the Office Action, the Examiner rejected claims 12, 13, 15, 16, 20, 22, 24, 25,

28, 36, 37, and 39 under 35 U.S.C. §103(a) as being unpatentable over Apfel in view of Stephens.

It is noted that the Examiner again inadvertently omitted Ballard from this rejection.

Stephens does not make up for the deficiencies of Apfel and Ballard with regard to independent claims 1, 18, 32, and 45. Therefore, independent claims 1, 18, 32, and 45 are patentable over Apfel in view of Ballard and further in view of Stephens. Because independent claims 1, 18, 32, and 45 are patentable over Apfel in view of Ballard and further in view of Stephens, dependent claims 12, 13, 15, 16, 20, 22, 24, 25, 28, 36, 37, and 39 are *per force* patentable over Apfel in view of Ballard and further in view of Stephens.

In section 31 of the Office Action, the Examiner rejected claims 14 and 23 under 35 U.S.C. §103(a) as being unpatentable over Apfel in view of Stephens and further in view of Beyda.

It is noted that the Examiner again inadvertently omitted Ballard from this rejection also.

Beyda does not make up for the deficiencies of Apfel, Ballard, and Stephens with regard to independent claims 1, 18, 32, and 45. Therefore, independent claims 1, 18, 32, and 45 are patentable over Apfel in view of

Ballard and further in view of Stephens and still further in view of Beyda. Because independent claims 1, 18, 32, and 45 are patentable over Apfel in view of Ballard and further in view of Stephens and still further in view of Beyda, dependent claims 14 and 23 are *per force* patentable over Apfel in view of Ballard and further in view of Stephens and still further in view of Beyda.

CONCLUSION

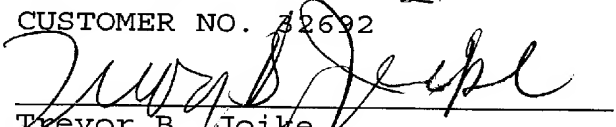
In view of the above, it is clear that the claims of the present application patentably distinguish over the art applied by the Examiner. Accordingly, allowance of these claims and issuance of the above captioned patent application are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees that may be required, or to credit any overpayment, to account No. 50-1519.

Respectfully submitted,

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